

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S2/24/09 S3/3/09

A Bill

SENATE BILL 431

5 By: Senator T. Smith
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For An Act To Be Entitled

9 AN ACT CONCERNING THE USE OF INSURANCE PROCEEDS
10 IN CONTRAVENTION OF A SECURITY AGREEMENT; AND FOR
11 OTHER PURPOSES.
12

Subtitle

14 CONCERNING THE USE OF INSURANCE PROCEEDS
15 IN CONTRAVENTION OF A SECURITY
16 AGREEMENT.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 5-37-203 is amended to read as follows:
22 5-37-203. Defrauding a secured creditor.

23 *(a)(1) A person commits the offense of defrauding a secured creditor*
24 *in the first degree if he or she destroys, removes, cancels, encumbers,*
25 *transfers, or otherwise disposes of property subject to a security interest*
26 *with the purpose to hinder enforcement of the security interest.*

27 ~~*(b)(2) Defrauding a secured creditor in the first degree is a Class D*~~
28 ~~*felony.*~~

29 *(b)(1) A person commits the offense of defrauding a secured creditor*
30 *in the second degree if he or she uses motor vehicle insurance policy*
31 *proceeds in excess of one thousand dollars (\$1,000) obtained from a*
32 *settlement of a property damage claim on a motor vehicle subject to a*
33 *security interest in contravention of the security agreement that creates or*
34 *provides for the security interest in the motor vehicle.*

35 *(2) Defrauding a secured creditor in the second degree is a*
36 *Class A misdemeanor.*



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SECTION 2. Arkansas Code Title 23, Chapter 89, Subchapter 2 is amended to add an additional section to read as follows:

23-89-216. Notice concerning use of insurance proceeds.

(a) When making payment on a claim under a motor vehicle insurance policy for damage to a motor vehicle, a motor vehicle liability insurer shall provide a written notice to the insured in substantially the following form:

"Failure to use the insurance proceeds in accordance with a security agreement between you and a lienholder, if any, may constitute the criminal offense of defrauding a secured creditor in violation of Arkansas Code § 5-37-203. If you have any questions, contact your lienholder."

(b) The written notice required by subsection (a) of this section may be provided by including the written notice on each written loss estimate prepared in connection with the claim.

/s/ T. Smith